

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 11977 OF 2023

Hotel Darbar Thru Prashant P Barge
Versus

...Petitioner

The State Of Maharashtra Thru The
Revenue And Forest Dept. And Anr

...Respondents

Adv. Ajit Kenjale a/w Kaustubh Kandpile a/w Adv. Azharuddin Khan a/w Adv.
Sai Rajendra Kadam, for the Petitioner.
Mr. N.K. Rajpurohit, for the Respondent-State.

CORAM : G. S. KULKARNI &
ADVAIT M. SETHNA, JJ.

DATE : 25 MARCH 2025

P.C.:

1. This petition under Article 226 of the Constitution of India is filed
praying for the following substantive reliefs :-

“a) This Hon'ble Court may be pleased to call for record and proceedings of the Impugned Order dated 3.9.2021 passed by Ld. State of Maharashtra through Revenue and Forest Department and further consequential Order dated 21.3.2022 passed by the Ld. District Collector, Satara and after perusing its legality, validity and propriety, be pleased to quash and set aside the same.

b) This Hon'ble Court be pleased to direct the Respondents to refund balance amount of Rs. 40,25,000/- due and payable to the Petitioner towards the auction dated 29.1.2015 for excavation of sand in respect of Gat No. 498 to 501 (2898 brass) of Mangalapur, Tal. Koregaon, Dist. Satara;

c) That this Hon'ble Court may be pleased to grant interest rate of 18% p.a. for the refund of Rs. 40,25,000/- from the date of deposit of the amount till date;”

2. The primary grievance of the petitioner is that respondent did not have any authority to forfeit the amount, the refund of which is prayed for in this petition.

3. At the outset we may observe that this petition is simplicitor for a money claim that too arising from a contract between the parties. This petition is not an appropriate remedy for the petitioner to seek such reliefs, considering the well settled principles of law.

4. This apart, the forfeiture of the amount in question is in terms of the contract between the parties as clearly seen from the allotment letter as issued in favour of the petitioner for excavation of the land.

5. It is a settled principle of law that the forfeiture of the amounts, in a contract is in the realm of damages. The petitioner's contention that the respondent is not entitled to forfeit the amounts in question, or such forfeiture is not the actual amount of damages which were suffered by the respondent, is certainly a matter which requires proof of actual damages for which the petitioner would be required to lead evidence and prove that the amounts sought to be forfeited is not the appropriate or a reasonable measure of the damages. The principles of law in this regard are well settled in view of the Constitution bench judgment of the Supreme Court in *Fateh Chand v. Balkishan Das*¹, as also decision of the recent origin of the Supreme Court in *Kailash Nath Associates Vs. DDA*,² followed by the Division Bench of this court in *Ultratech Cement Ltd vs. Sunfield Resources Pty. Ltd.*³

1. AIR 1963 SC 1405.

2. (2015)4 SCC 135.

3. (2017) 7 Bom. CR. 133.

6. In this view of the matter it is not possible for this Court to consider the prayers as made in the petition. The petition is misconceived. It is accordingly dismissed, however keeping open all contentions of the petitioner to be urged in the appropriate proceedings.

7. Disposed of. No costs.

[ADVAIT M. SETHNA, J.]

[G. S. KULKARNI, J.]